

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE V.GIRI

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

MFA.No. 204 of 2000()

MVOP.184/1995 of M.A.C.T., THALASSERY

.....

APPELLANT:

Bindu Joseph, D/o. Joseph, Puthussery Kalayil House, Payam
Amsom Desom, P.O. Payam East, Dist. Kannur.

BY ADV. SMT.VIDHYA. A.C

RESPONDENTS:

1. M. Prakashan, S/o. Krishnan, Puthiyedath House,
Edakkad Amsom Desom, P.O. Edakkad, Dist. Kannur.
2. K.K.Moosa, S/o. Moideen Koya, Manalthazha House,
New Mahe, P.O. Peringadi, Dist. Kannur.
3. United India Insurance Co. Ltd., Thalassery.

BY ADV. SRI.C.K.SREEJITH

MATHEWS JACOB(SR),SC INSURANCE(B/O)

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD
ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

J.B.Koshy & V. Giri, JJ.

=====

M.F.A.No.204 of 2000

=====

Dated this the 23rd day of August, 2007.

JUDGMENT

Koshy,J.

Appellant suffered injuries in a motor accident due to the negligence of the Driver of the vehicle of the second respondent and insured with the third respondent. She claimed a total compensation of Rs.1,00,000/-, but the compensation awarded is only Rs.15,500/-. Only the quantum of compensation is disputed in this appeal.

2. Claimant was aged 20 at the time of the accident. According to her, she was employed as a cook in a hostel and because of the injuries, she was unable to do work thereafter. Ext.A11 shows that she got training and diploma in Home Science. She claimed only Rs.1,000/- as monthly income. Since that was below the notional income fixed for an earning person in the second Schedule, the Tribunal accepted the same. However, since no disability certificate assessing the percentage was

produced, compensation for disability was not awarded by multiplier method. Ext.A4 is the discharge certificate, which shows that she sustained fracture on her nasal bone. Ext.A10 scan report gives the following details:

“5 mm, section in the posterior fossa, 10 mm, in the supratentorium; right maxillary sinus dense with replacement of air, E/o mucosal thickening noted”.

3. For pain and suffering only Rs.5,000/- was awarded. Considering the injuries on the nose and fracture on nasal bone, we are of the opinion that at least Rs.7,500/- ought to have been awarded and therefore Rs.2,500/- is awarded as additional compensation for pain and suffering. On account of medical expenses, bills for Rs.1,890/- were produced and an amount of Rs.2,000/- was allowed towards medical expenses. Apart from the actual bills for the medicines, there were several expenses regarding the treatment purposes. We are of the opinion that in the circumstances, an additional amount of Rs.1,000/- can be awarded for medical expenses. After seeing that she was a 20 year old girl having nasal fracture, Tribunal observed that it was evident even at the of appearance, there was disfiguration. No

amount was awarded for the disfiguration. According to her, because of the disfiguration, she was not able to continue her employment. The Tribunal after seeing the fracture on her nasal bone, for disability and for loss of amenities, etc., Rs.5,000/- was allowed. Taking into account the disfiguration, we allow an additional amount of Rs.5,000/- on those heads. Thus, the claimant is entitled to an additional amount of Rs.8,500/-. The third respondent - Insurance Company is directed to deposit the additional amount of Rs.8,500/- with interest at 7.5% over and above the decreed amount by the Tribunal from the date of the petition till the date of deposit. On deposit of the amount, the appellant is entitled to withdraw the same.

Appeal is partly allowed.

J.B.Koshy,
Judge.

V.Giri,
Judge.